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*Attorneys for Plaintiffs Affilious, Inc., Jessyca
Frederick, NJ Premier Inc., Timothy Mills,
Mark Young, Danny Collins, Joshua Jeon,
406 Property Services, PLLC, Mark Berney,
and MarQuisha Cork*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

MAXIMILIAN KLEIN, et al.,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

Case No. 20-CV-08570-LHK

Hon. Lucy H. Koh

**DECLARATION OF KRISTEN M.
ANDERSON IN SUPPORT OF
ADVERTISER PLAINTIFFS'
MOTION FOR APPOINTMENT OF
INTERIM CO-LEAD COUNSEL AND
EXECUTIVE COMMITTEE TO
REPRESENT PROPOSED
ADVERTISER CLASS**

Date: March 18, 2021
Time: 1:30 p.m.
Courtroom: 8

VICKIE SHERMAN, et al.

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

Case No. 20-CV-08721-LHK

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RACHEL BANKS KUPCHO,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

Case No. 20-CV-08815-LHK

JESSICA L. LAYSER,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

Case No. 21-CV-00337-LHK

AFFILIOUS, INC., et al.,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

Case No. 20-CV-09217-LHK

DEBORAH DAMES, et al.,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

Case No. 20-CV-08817-LHK

CHARLES STEINBERG,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

Case No. 20-CV-09130-LHK

1 RITA GARVIN,

2 Plaintiffs,

3 vs.

4 FACEBOOK, INC.,

5 Defendant.

Case No. 21-CV-00618-LHK

6 JOE KOVACEVICH,

7 Plaintiffs,

8 vs.

9 FACEBOOK, INC.,

10 Defendant.

Case No. 21-CV-01117-LHK

1 I, Kristen M. Anderson, pursuant to 28 U.S.C. §1746, declare that the following is true and
2 correct to the best of my knowledge and belief.

3 1. I am an attorney at Scott+Scott Attorneys at Law LLP (“Scott+Scott”). My firm
4 represents plaintiffs Affilious, Inc., Jessyca Frederick, NJ Premier Inc., Timothy Mills, Mark
5 Young, Danny Collins, Joshua Jeon, 406 Property Services, PLLC, Mark Berney, and MarQuisha
6 Cork (the “Advertiser Plaintiffs”), in this litigation. I am familiar with the proceedings and have
7 personal knowledge of the matters in this declaration and, if called upon, I could and would
8 competently testify to these matters under oath.

9 2. I make this declaration in support of Advertiser Plaintiffs’ Motion for Appointment
10 of Interim Co-Lead Counsel and Executive Committee to Represent the Proposed Advertiser
11 Class. Pursuant to Fed. R. Civ. P. 23(g), the Motion seeks appointment of: (a) Scott+Scott, Ahdoot
12 & Wolfson, PC, and Levin Sedran & Berman LLP as interim co-lead counsel for the proposed
13 advertiser class (collectively, “Proposed Advertiser Counsel”); and (b) Bathaee Dunne LLP and
14 Reinhardt Wendorf & Blanchfield to serve as members of an executive committee on behalf of the
15 proposed advertiser class.

16 **I. PRE-COMPLAINT INVESTIGATION**

17 3. On December 18, 2020, Scott+Scott and Bathaee Dunne filed a class action
18 complaint against Facebook, Inc. on behalf of plaintiffs Affilious, Inc., Jessyca Frederick, NJ
19 Premier Inc., Timothy Mills, Mark Young, Danny Collins, Joshua Jeon, 406 Property Services,
20 PLLC, Mark Berney, and MarQuisha Cork. *See* Class Action Complaint, *Affilious, Inc. v.*
21 *Facebook, Inc.*, No 5:20-cv-09217, ECF No. 1 (N.D. Cal. Dec. 18, 2020) (“*Affilious* Complaint”).

22 4. Significant pre-complaint factual and economic investigation was undertaken by
23 Scott+Scott and Bathaee Dunne prior to the filing of the *Affilious* Complaint, including a review
24 of publicly available sources, such as the publicly available internal Facebook documents and suits
25 brought by relevant regulators. Significantly, in November 2019, more than 4,000 pages of
26 internal Facebook documents were published by news organizations. In fact, all references to
27 internal Facebook documents in the *Affilious* Complaint are from this cache of documents.

Affilius Compliant, n.1. Additionally, on December 9, 2020, the Federal Trade Commission (“FTC”) and 48 State Attorneys’ General (“AGs”), separately but in coordination, filed complaints against Facebook alleging it unlawfully acquired and maintains monopoly power in market for personal social network services. *See* Complaint for Injunctive and Other Equitable Relief (Public Redacted Version), *Federal Trade Commission v. Facebook, Inc.*, No. 1:20-cv-3590-JEB, ECF No. 51 (D.D.C. Jan. 13, 2021); Complaint, *State of New York v. Facebook Inc.*, No. 1:20-cv-3589-JEB, ECF No. 4 (D.D.C. Dec. 9, 2020). The FTC and AGs bring claims for equitable and injunctive relief for violations of the Sherman Act, Clayton Act, and FTC Act.¹

5. Scott+Scott and Bathaee Dunne also reviewed: (a) Facebook’s security filings and public statements; (b) the substantial literature published by various academics addressing Facebook’s market power and market structure and monopolization issues more generally as they pertain to tech platforms; (c) market studies prepared by relevant competition regulators such as the UK’s Competition and Markets Authority (“CMA”)² and the Australian Competition and Consumer Commission (“ACCC”)³; and (d) various sources of statistical information recording the operation of the social media, mobile phone and advertising industries, among other resources.

6. In addition, Scott+Scott and Bathaee Dunne spoke with industry participants with knowledge and experience of Facebook’s advertising offering and economic consultants with experience of monopolization issues, to ensure they pled the contours and operation of the relevant Social Advertising Market appropriately in their complaint.

¹ The FTC brings claims for injunctive relieve under Section 13(b) of the FTC Act, 15 U.S.C. §53(b) for violation of Section 2 of the Sherman Act, 15 U.S.C. §2 and Section 5(a) of the FTC Act, 15 U.S.C. §45(a). The AGs bring claims for injunctive relief under Section 16 of the Clayton Act, 15 U.S.C. §26 for violations of Section 2 of the Sherman Act, 15 U.S.C. §2 and Section 7 of the Clayton Act, 15 U.S.C. §18.

² *See* CMA, *Online Platforms and digital advertising: market study final report*, July 1, 2020, available here: <https://www.gov.uk/cma-cases/online-platforms-and-digital-advertising-market-study>. *See also* various Appendices published with the Final Report and Facebook’s August 4, 2020 response to the CMA’s Interim Report available at the same page.

³ *See* ACCC, *Digital Platforms Inquiry – Final Report & Executive Summary* (July 26, 2019) <https://www.accc.gov.au/focus-areas/inquiries-finalised/digital-platforms-inquiry-0/final-report-executive-summary>.

II. FIRM RESOURCES

7. Scott+Scott has over 100 lawyers practicing across offices in New York, London, Amsterdam, Berlin, California, Virginia, Ohio, and Arizona. Our core leadership team working on this case at Scott+Scott includes Christopher M. Burke, Patrick McGahan, and myself, each of whom are partners within the firm's specialist competition practice. They will be assisted by associates from the firm's competition team, including David H. Goldberger, Yifan ("Kate") Lv, and Michael Srodoski. This team will be supported by experienced, salaried staff attorneys with experience in antitrust litigation. The firm does not use contract attorneys. Scott+Scott's further experience and qualifications in the field of antitrust litigation are detailed in the firm résumé, attached hereto as Exhibit A.

8. Scott+Scott serves as co-lead counsel in the matter of *In re Foreign Exchange Benchmark Rates Antitrust Litig.*, No. 13-cv-7789 (LGS) (S.D.N.Y.) ("FX"), an antitrust action alleging major banks conspired to fix the price of foreign exchange. Approved settlements for the class to date total over \$2.3 billion. Because of the amount (data from over 7,000 files from 30 different trading systems amounting to 10 billion rows and 6.5 terabytes), sensitivity and parameters of the data produced in FX, off-the-shelf software solutions could not be used and, instead, Scott+Scott created and continues to maintain a secure environment for hosting and analyzing the transaction data produced in that case. This entailed a sizeable ongoing investment from Scott+Scott. Scott+Scott is prepared to make a similar investment in this case if the need arises.

9. In FX, Scott+Scott has advanced to date in excess of \$10,000,000 in costs, \$6.4 million of which has been reimbursed from the settlement funds. Declaration in Support of Attorneys' Fees, FX, ECF No. 939-2, at Exhibit 2 (S.D.N.Y. Jan. 12, 2018). Similarly, in *Alaska Electrical Pension Fund v. Bank of America, N.A.*, No. 14-cv-7126 (JMF) (S.D.N.Y.) ("ISDAfix"), Scott+Scott advanced approximately \$4.15 million in costs. Declaration in Support of Attorneys' Fees, ISDAfix, ECF No. 701, at Exhibit 3 (S.D.N.Y. Sept. 28, 2018). Scott+Scott is likewise willing and able to front large costs in this case to make sure the class is properly represented.

III. ADDITIONAL FIRM EXPERIENCE

10. Apart from its extensive success in significant antitrust cases, addressed in Exhibit A, the firm also benefits from recent experience in tech related litigation across its related practice groups. For example, it currently serves in leadership capacity in the following data privacy and data breach class actions on behalf of consumers and businesses:

- a. *In re Google Assistant Privacy Litigation*, No. 5:19-cv-04286 (N.D. Cal.) (class action on behalf of consumers alleging privacy violations whereby Google Assistant records and discloses their private confidential communications without consent);
- b. *Lopez v. Apple Inc.*, No. 4:19-cv-04577 (N.D. Cal.) (class action on behalf of consumers and their minor children alleging privacy violations by Apple through its Siri application); and
- c. *In re Equifax, Inc. Customer Data Security Breach Litigation*, No. 1:17-md-02800 (N.D. Ga.) (claims on behalf of financial institutions injured as a result of the 2017 Equifax data breach that exposed the personal and financial information of approximately 150 million U.S. consumers; preliminary approval of settlement valued at \$32.5 million).

11. The firm has also secured substantial recoveries on behalf of investors in relation to tech companies' breaches of U.S. securities laws. *See e.g., In re SanDisk LLC Secs. Litig.*, No. 15-cv-01455 (N.D. Cal.) (\$50 million settlement); and *In re Priceline.com, Inc. Secs. Litig.*, No. 00-cv-01884 (D. Conn.) (\$80 million settlement).

Executed on this 5th day of March, 2021 in New York, New York.


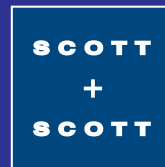
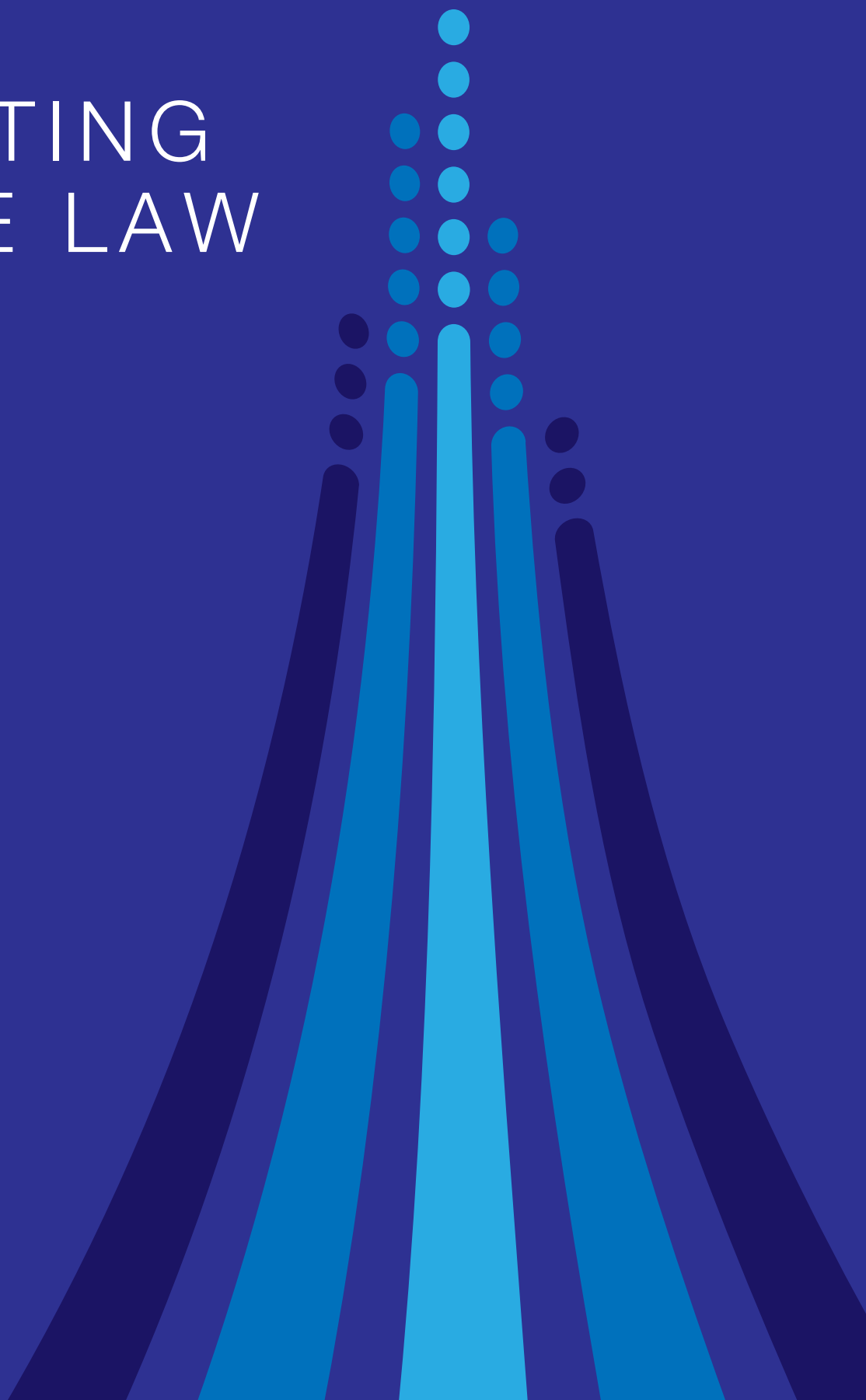

 KRISTEN M. ANDERSON

EXHIBIT A



INVESTING IN THE LAW

Firm Overview



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“If we desire respect for the law, we must first make the law respectable.”

Louis D. Brandeis - 16 October 1912.

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WE BELIEVE IN
BOTH THE SPIRIT
AND THE LETTER
OF THE LAW.





Scott+Scott specializes in the investigation and prosecution of complex actions across the globe – recovering billions for its clients. The Firm has extensive experience litigating securities fraud, antitrust, and other complex cases and is a pioneer in structured finance monitoring for client portfolios. We represent individual, institutional and multinational clients in the U.S and EU courts, offering a one-stop shop for international recoupment.





Scott+Scott was founded in 1975 and began its securities litigation practice in 1997. The Firm has since grown into one of the most respected law firm specializing in the investigation and prosecution of complex actions across the United States and in Europe. Today, it is comprised of over 125 team members, including over 100 highly experienced attorneys, a 30+ paraprofessional team comprised of paralegals and legal assistants, a finance manager, institutional investor liaisons, and other office support staff, in addition to an IT support and development group, financial analysts, forensic accountants, investment consultants, and an in-house investigations department.

Scott+Scott is headquartered in Connecticut and has additional offices in New York, London, Amsterdam, Berlin, California, Virginia, Ohio, and Arizona.

Scott+Scott has extensive experience litigating securities fraud, antitrust, and other complex cases on behalf of our institutional and individual clients throughout the United States, serving as lead counsel in numerous securities class actions since the enactment of the Private Securities Litigation Reform Act of 1995 (“PSLRA”) and as lead and co-lead



counsel in antitrust, consumer, and other complex litigation. The Firm also represents many multinational corporations in foreign jurisdiction litigation in the EU courts.

Scott+Scott's attorneys are recognized experts and leaders in securities monitoring, complex litigation, and corporate governance law. They regularly speak at institutional investor educational conferences around the world and before boards of directors and trustees responsible for managing institutional investments. Scott+Scott attorneys educate institutional investors and governmental entities on the importance of fulfilling fiduciary obligations through the adoption of appropriate asset recovery services, as well as through the development and enforcement of corporate governance initiatives.

Scott+Scott has been a pioneer in structured finance monitoring of our clients' portfolios and the Firm's vast experience in structured debt financial litigation has enabled us to provide clients with in-depth monitoring of their structured finance products. Structured-finance products, like asset-backed securities and collateralized debt obligations, attract investors with high returns relative to other fixed-income instruments. However, those returns can come with substantial undisclosed risks due to investors' limited ability to assess what they are actually acquiring. Most investors cannot review the assets that underlie



securitizations, nor negotiate around the boiler-plate terms that govern securitizations, and have very little control over the parties that administer securitizations.

Scott+Scott's portfolio monitoring service responds to these unique risks. Importantly, the Firm does not just track the performance of our clients' structured-finance positions. We analyze it in the context of other data that allows us to understand what drives losses, should any occur. Initially, Scott+Scott conducts a review of the overall record of the parties that issue and administer our clients' structured-finance investments, such as sponsors, servicers, and trustees. The conduct of those parties reveals whether a securitization is suffering from hidden flaws, such as defective underlying assets, for which investors should be compensated. In addition, Scott+Scott reviews securitizations' asset-level performance and their governing agreements to identify any specific instances of those parties breaching their obligations and harming investors. This comprehensive approach enables Scott+Scott to identify hard-to-spot wrongdoing and hold the appropriate parties responsible, ultimately winning significant recoveries for clients who purchased structured-finance products. The Firm has also evaluated and monitored debt and debentures originating from private placements and non-public companies, including municipal bonds and derivatives for our clients.



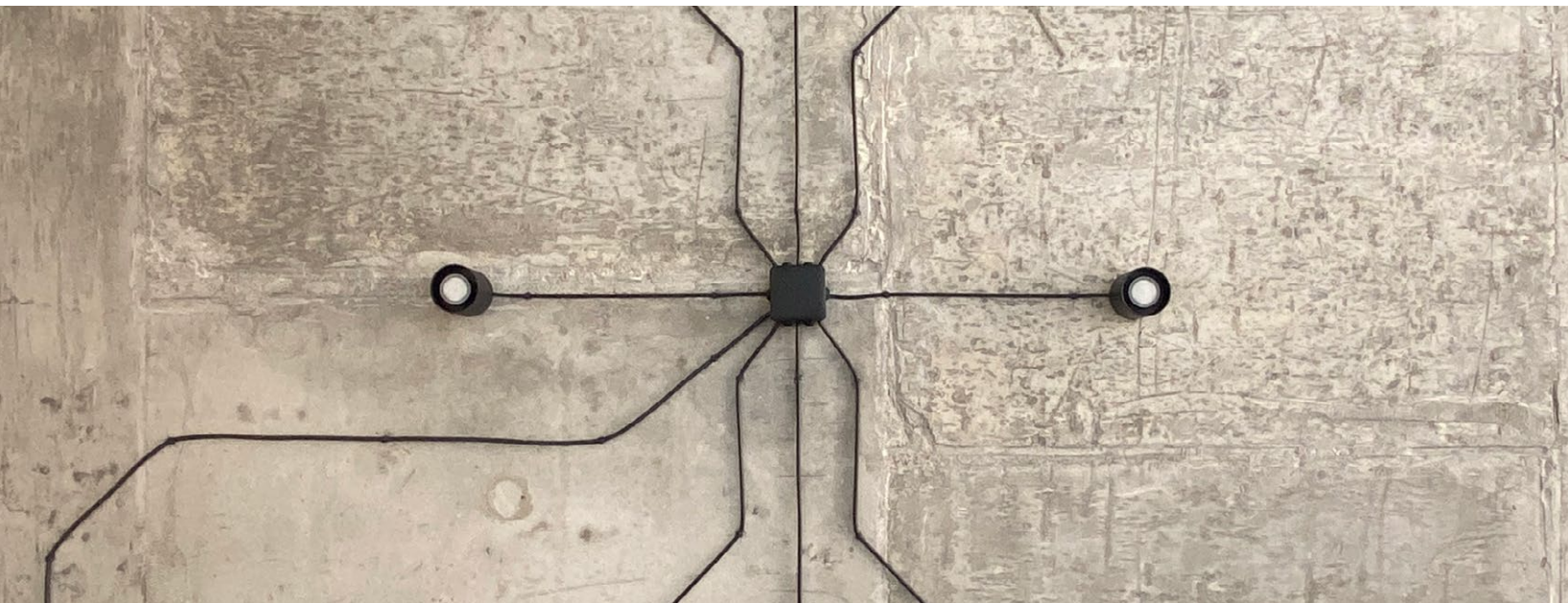


ANTITRUST LITIGATION



Scott+Scott represents investors, businesses, and consumers in price-fixing, bid-rigging, monopolization, and other restraints of trade cases on both a class-wide and individual basis. The Firm's work for its clients helps ensure that markets remain free, open, and competitive.

Scott+Scott has been recognized by the American Antitrust Institute with an Outstanding Antitrust Litigation Achievement in Private Law Practice award in 2020, 2018, and an honorable mention in 2014. In addition, the 2018 Antitrust Annual Report found that in 2018, the Firm had the highest antitrust settlement in the country, as well as ranking first nationally in aggregate settlement amount from 2013 to 2018, recovering over \$3.4 billion. Scott+Scott's dedicated team of antitrust partners have built one of the nation's top plaintiffs' firms for antitrust actions. Furthermore, our European expansion reflects a commitment and ability to pursue claims on a global basis.





Antitrust CASE EXAMPLES

Antitrust actions in which Scott+Scott currently serves as a lead or co-lead counsel include:

- *In re: Foreign Exch. Benchmark Rates Antitrust Litig.*, No. 13-cv-07789 (S.D.N.Y.) (challenging price-fixing of foreign exchange rates; over **\$2.3 billion in final-approved settlements**).

The largest antitrust settlement of 2018 according to the American Antitrust Institute;

- *In re Disposable Contact Lens Antitrust Litig.*, No. 15-md-02626 (M.D. Fla.) (class action alleging illegal anticompetitive policies to eliminate discount pricing by the major manufacturers and distributors of disposable contact lenses);
- *In re Cattle Antitrust Litig.*, No. 19-cv-1222 (D. Minn.) (class action challenging conspiracy among the nation's dominant meat packers to suppress fed cattle prices)
- *In re European Gov't Bonds Antitrust Litig.*, No. 19-cv-02601 (S.D.N.Y.) (challenging manipulation in the market for European Government Bonds);
- *In re ICE LIBOR Antitrust Litig.*, No. 19-cv-02002 (S.D.N.Y.) (class action alleging anticompetitive conduct in the setting of the ICE LIBOR benchmark rate);
- *Deslandes v. McDonalds USA, LLC*, No. 17-cv-04857 (N.D. Ill.) (class action challenging no-hire agreement among McDonald's franchisees);
- *Butler v. Jimmy John's Franchise, LLC*, No. 18-cv-00133 (S.D. Ill.) (class action challenging no-hire agreement among Jimmy John's franchisees); and
- *Blanton v. Domino's Pizza Franchising LLC*, No. 18-cv-13207 (E.D. Mich.) (class action challenging no-hire agreement among Domino's franchisees).

Antitrust cases in which Scott+Scott previously served as lead or co-lead counsel include:

- *Dahl v. Bain Capital Partners, LLC*, No. 07-cv-12388 (D. Mass.) (challenging bid rigging and market allocation of leveraged buyouts by private equity firms; **\$590.5 million in settlements**);
- *Alaska Elec. Pension Fund v. Bank of Am. Corp.*, No. 14-cv-07126 (S.D.N.Y.) (challenging price-fixing of the ISDAfix benchmark interest rate; **\$504.5 million in settlements**).

The 3rd largest antitrust settlement of 2018 according to the American Antitrust Institute;

- *In re GSE Bonds Antitrust Litig.*, No. 19-cv-01704 (S.D.N.Y.) (challenging manipulation in the market for bonds issued by Government-Sponsored Entities, e.g., Freddie Mac and Fannie Mae; **\$386 million settlement**);

- *In re Korean Air Lines Co., Ltd. Antitrust Litig.*, MDL No. 1891 (C.D. Cal.) (challenging price-fixing/illegal surcharge of ticket prices; **\$86 million in cash and travel voucher settlements**); and
- *Mylan Pharms., Inc. v. Warner Chilcott Pub. Ltd. Co.*, No. 12-cv-03824 (E.D. Pa.) (challenging monopolization in the sale of name-brand pharmaceutical on behalf of indirect purchaser class; **\$8 million settlement**).

The Firm has aided in the recovery for class members by serving on the executive leadership committees in numerous other class action litigation, including:

- *In re Payment Card Interchange Fee & Merch. Discount Antitrust Litig.*, No. 05-md-01720 (E.D.N.Y.) (challenging price-fixing in the payment cards industry; **\$6.24 billion settlement** preliminarily approved);
- *Kleen Products LLC v. Int'l Paper Co.*, No. 10-cv-05711 (N.D. Ill.) (challenging price-fixing of containerboard products; **over \$376 million in settlements**);
- *In re Lithium Ion Batteries Antitrust Litig.*, No. 13-md-02420 (N.D. Cal.) (challenging price-fixing of lithium-ion batteries on behalf of indirect purchaser class; **over \$113 million in settlements**); and
- *In re Mexican Gov't Bonds Antitrust Litig.*, No. 18-cv-02830 (S.D.N.Y.) (an antitrust class action by eight institutional investors prosecuting 10 global financial institutions for colluding to fix the prices of debt securities issued by the Mexican Government between 2006 and 2017).

Scott+Scott's class action antitrust experience includes serving as co-trial counsel in:

- *In re Scrap Metal Antitrust Litig.*, No. 02-cv-00844 (N.D. Ohio) (helped obtain a **\$34.5 million jury verdict**, which was subsequently affirmed by the U.S. Court of Appeals for the Sixth Circuit); and
- *Ross v. Bank of Am. N.A.*, MDL No. 1409 (S.D.N.Y.) (bench trial involving agreement among payment cards to impose arbitration terms on cardholders).



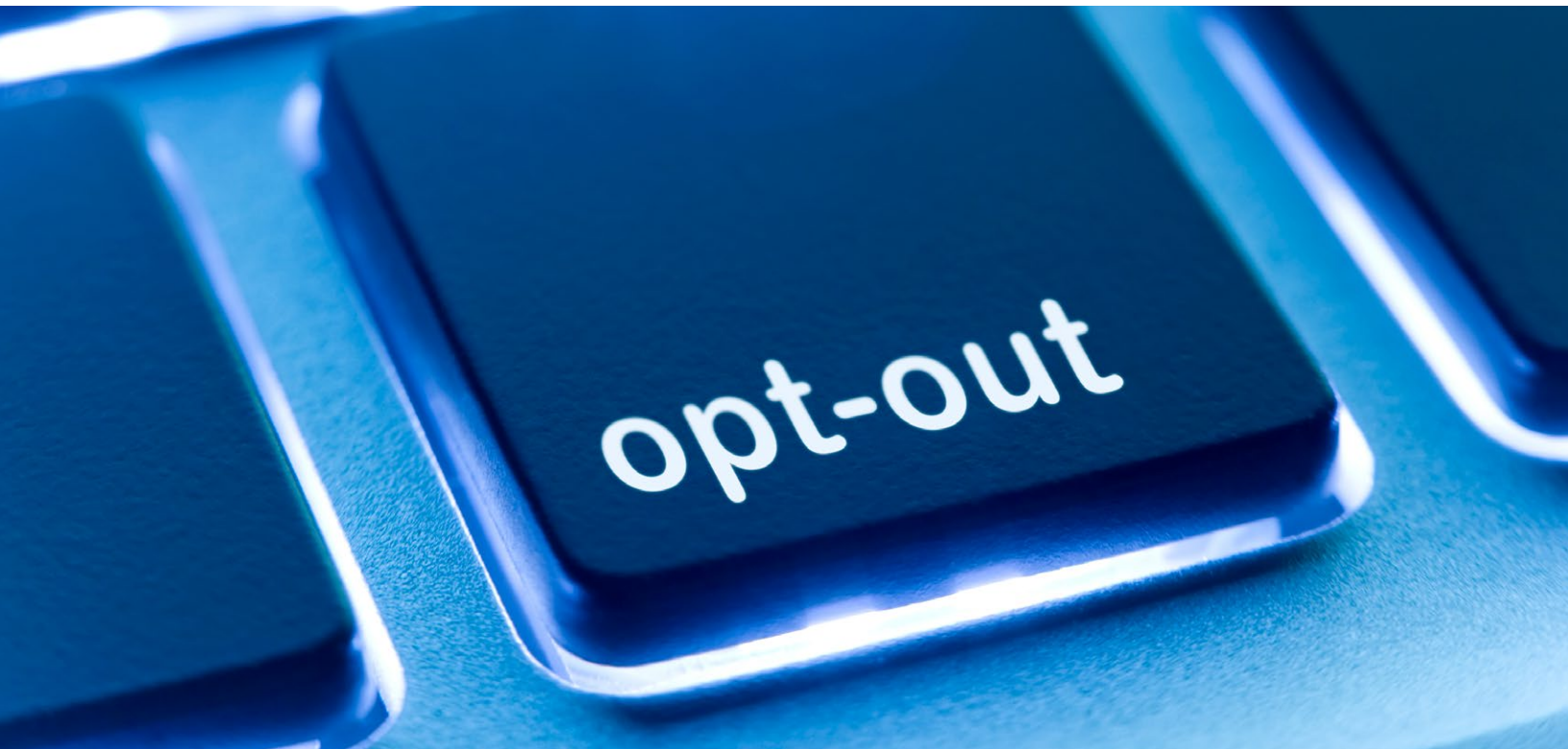


“OPT OUT” LITIGATION



In addition to its class action work, Scott+Scott also represents clients in opt-out antitrust litigation. The Firm’s success in class actions allows it to provide its opt-out clients unique and valuable insights. Representative clients include Parker Hannifin Corporation, PolyOne Corporation, Eastman Kodak Company, and Fujifilm Manufacturing U.S.A., Inc., in the following matters:

- *In re: Aluminum Warehousing Antitrust Litig.*, MDL No. 2481 (S.D.N.Y.);
- *In re Rubber Chemicals Antitrust Litig.*, MDL No. 1648 (N.D. Cal.);
- *In re Polychloroprene Rubber (CR) Antitrust Litig.*, MDL No. 1642 (D. Conn.); and
- *In re Plastic Additives Antitrust Litig.* (No. II), MDL No. 1684 (E.D. Pa.).





WORLD-CLASS ATTORNEYS

We pride ourselves on the caliber of legal talent on our team. In addition to some of the best and brightest rising stars, we have attorneys who have served with distinction in the U.S. Department of Justice, been admitted to the U.S. Supreme Court, served in OAGs at the state level, argued before the UK's CAT and High Courts, and received virtually every accolade offered in our profession.

DAVID R. SCOTT

PRACTICE EMPHASIS

Managing Partner David R. Scott represents multinational corporations, hedge funds, and institutional investors in high-stakes, complex litigation, including antitrust, commercial, and securities actions.

EDUCATION

New York University School of Law (LL.M. in taxation); Temple University School of Law (J.D., Moot Court Board, 1989); St. Lawrence University (B.A., cum laude, 1986)

ADMISSIONS

United States Tax Court; United States District Courts: for the Southern District of New York; Eastern District of Pennsylvania; District of Connecticut; Northern and Southern Districts of Texas; and the District of Colorado; States of Court of New York, Connecticut and Pennsylvania

HIGHLIGHTS

Mr. Scott is the Managing Partner of Scott+Scott with offices in New York, London, Amsterdam, Berlin, California, Connecticut, Virginia, Arizona and Ohio.

In addition to managing the firm's lawyers worldwide, Mr. Scott advises some of the world's largest multinational corporations in cartel damages and other complex matters. He has been retained to design corporate policies for the global recoupment of losses, and transatlantic private enforcement programs.

He currently represents multinational companies and hedge funds in cases involving, among other things, price-fixing in the trucks, foreign exchange, high voltage power cables, cardboard, and payment card sectors.

Mr. Scott's antitrust cases in the United States have resulted in significant recoveries for victims of price-fixing cartels. Among other cases, Mr. Scott served as co-lead counsel in *Dahl v Bain Capital Partners*, No. 1:07-cv-12388 (D. Mass.), an action alleging that the largest private equity firms in the United States colluded to suppress prices that shareholders received in leveraged buyouts and that the defendants recently **agreed to settle for \$590.5 million**. He was lead counsel in *Red Lion Medical Safety v. Ohmeda*, No. 06-cv-1010 (E.D. Cal.), a lawsuit alleging that Ohmeda, one of the leading manufacturers of medical anesthesia equipment in the United States, excluded independent service organizations from the market for servicing its equipment. The case was successfully resolved in settlement negotiations before trial.

Mr. Scott has received widespread recognition for his antitrust and competition law work. He has been elected to **Who's Who Legal: Competition 2015- 2020**, which lists the world's

top antitrust and competition law lawyers, selected based on comprehensive, independent survey work with both general counsel and lawyers in private practice around the world. He has also received a **highly recommended ranking by Benchmark Litigation for each of the years 2013-2015.**

In addition to his extensive competition law work, Mr. Scott has also taken the lead in bringing claims on behalf of institutional investors, such as sovereign wealth funds, corporate pension schemes, and public employee retirement funds. For example, he has been retained to pursue losses against mortgaged-backed securities trustees for failing to protect investors. He also represented a consortium of regional banks in litigation relating to toxic auction rate securities (“ARS”) and obtained a sizable recovery for the banks in a confidential settlement. This case represents one of the few ARS cases in the country to be successfully resolved in favor of the plaintiffs.

Mr. Scott is frequently quoted in the press, including in publications such as *The Financial Times*, *The Guardian*, *The Daily Telegraph*, *The Wall Street Journal*, and *Law360*. He is regularly invited to speak at conferences around the world and before Boards of Directors and trustees responsible for managing institutional investments.

CHRISTOPHER M. BURKE

PRACTICE EMPHASIS

Christopher M. Burke chairs Scott+Scott’s competition practice and sets the firm’s litigation standards.

EDUCATION

University of Wisconsin (M.A. 1989; J.D. 1993; Ph.D. 1996); William & Mary (M.A. 1988); The Ohio State University (B.A. 1984)

ADMISSIONS

States of California, New York, and Wisconsin; Numerous United States District Courts and Courts of Appeal

HIGHLIGHTS

Mr. Burke currently sits as a partner in the firm’s San Diego and New York offices with a principal practice in complex antitrust litigation, particularly in the financial services industry. He has served as lead counsel in some of the world’s largest financial services antitrust matters, including *In re GSE Bonds Antitrust Litigation*, No. 19-cv-01704 (S.D.N.Y.) (\$386.5 million settlement). Currently, he is co-lead counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.) (\$2.3 billion settlement);

In re Disposable Contact Lens Antitrust Litigation, No. 3:15-md-2626 (M.D. Fla.); and *Alaska Electrical Pension Fund v. Bank of America Corp.*, No. 14-cv-7126 (S.D.N.Y.) (ISDAfix litigation) (\$504.5 million settlement).

He has served as co-lead counsel in *Dahl v. Bain Capital Partners*, No. 07-cv-12388 (D. Mass.) (\$590.5 million settlement); *Axiom Investment Advisors, LLC, by and through its Trustee, Gildor Management LLC v. Barclays Bank PLC*, No. 15-cv-09323 (S.D.N.Y.) (\$50 million settlement); *In re Currency Conversion Antitrust Litigation*, MDL No. 1409 (S.D.N.Y.) (\$336 million settlement); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.) (subsequently as an executive committee member after joining Scott+Scott) (up to \$6.24 billion settlement); *LiPuma v. American Express Co.*, No. 1:04-cv-20314 (S.D. Fla.) (\$90 million settlement); and was one of the trial counsel in *Schwartz v. Visa*, No. 822505-4 (Alameda Cty. Super. Ct.) (\$780 million plaintiff's judgment after six months of trial); and *In re Disposable Contact Lens Antitrust Litigation*, MDL No. 1030 (M.D. Fla.) (\$90 million settlement with final settlements occurring during trial). Mr. Burke was one of the original lawyers in the Wholesale Elec. Antitrust cases in California, which settled for over \$1 billion.

Further, Mr. Burke was trial counsel in *Ross v. Bank of America N.A.*, No. 05-cv-7116, MDL No. 1409 (S.D.N.Y.) and *Ross v. American Express Co.*, No. 04-cv-5723, MDL No. 1409 (S.D.N.Y.). He was also co-lead counsel for indirect purchasers in *In re Korean Air Lines Co., Ltd. Antitrust Litigation*, MDL No. 1891 (C.D. Cal.) (\$86 million settlement), and *In re Prudential Ins. Co. of America SGLI/VGLI Contract Litigation*, No. 11-md-2208 (D. Mass.) (\$40 million settlement). Mr. Burke also investigated and filed the first complaint in *In re Credit Default Swaps Antitrust Litigation*, No. 13-md-2476 (S.D.N.Y.).

Mr. Burke frequently lectures at professional conferences and CLEs on competition matters, including litigation surrounding financial benchmarks, class-barring arbitration clauses, the effects of Twombly in 12(b)(6) motions, and the increasing use of experts at class certification and trial. The American Antitrust Institute ("AAI") honored Christopher Burke and Scott+Scott Attorneys at Law with an **Outstanding Antitrust Litigation Achievement in Private Law Practice** award at their 2018 Antitrust Enforcement Awards for efforts in the ISDAfix litigation. In 2014, he was also recognized for his exemplary work in the *Dahl v. Bain Capital Partners* matter by the AAI and has regularly been designated as a **Super Lawyer** by Thomson Reuters.

Mr. Burke has also served as an **Assistant Attorney General** at the Wisconsin Department of Justice and has lectured on law-related topics, including constitutional law, law and politics, and civil rights at the State University of New York at Buffalo and at the University

of Wisconsin. Mr. Burke's book, *The Appearance of Equality: Racial Gerrymandering, Redistricting, and the Supreme Court* (Greenwood, 1999), examines conflicts over voting rights and political representation within the competing rhetoric of communitarian and liberal strategies of justification.

Mr. Burke co-authored an article with Stephanie A. Hackett, David W. Mitchell, Simon J. Wilke, Melanie Stallings Williams, Michael A. Williams, and Wei Zhao, *Masters of the Universe: Bid Rigging by Private Equity Firms in Multibillion Dollar LBOs*, 87 U. Cin. L. Rev. 29 (2018).

KRISTEN M. ANDERSON

PRACTICE EMPHASIS

Kristen M. Anderson's practice focuses on class action litigation with an emphasis on antitrust cases within the financial services industry.

EDUCATION

University of California, Hastings College of the Law (J.D., 2006); St. Louis University (B.A., Philosophy, summa cum laude, 2003)

ADMISSIONS

United States Courts of Appeal: Second Circuit and Ninth Circuit; States of California, New York, Illinois and District of Columbia

HIGHLIGHTS

Ms. Anderson is a partner in the firm's New York office and is recognized as a **Rising Star** in the 2014-19 editions of **Super Lawyers**.

Currently, Ms. Anderson represents plaintiff-investors in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.) (\$2.3 billion settlement) and *In re GSE Bonds Antitrust Litigation*, No. 19-cv-1704 (S.D.N.Y.) (\$386.5 million settlement). She also represented pension funds and individual investors in *Axiom Investment Advisors, LLC, by and through its Trustees, Gildor Management LLC v. Barclays Bank PLC*, No. 15-cv-9323 (S.D.N.Y.) (\$50 million settlement), alleging misconduct in the foreign exchange market; *Dahl v. Bain Capital Partners, LLC*, No. 07-cv-12388 (D. Mass.) (\$590.5 million settlement), alleging collusion in the buyouts of large publicly traded companies by private equity firms. In addition, she served on the trial team representing certified classes of cardholders in antitrust cases challenging class action-banning arbitration clauses in credit card agreements as restraints of trade in *Ross v. Bank of America N.A.*, No. 05-cv-7116, MDL No. 1409 (S.D.N.Y.) and *Ross v. American Express Co.*, No. 04-cv-5723, MDL No. 1409 (S.D.N.Y.). Ms. Anderson also has an active pro bono immigration practice.

Ms. Anderson is a member of the American Bar Association's Antitrust Section. She served as Vice Chair of the Antitrust Section's Trial Practice Committee and was an editor of the Committee's newsletter, *Trying Antitrust*. She also served as a Vice Chair

of the Antitrust Section's Books & Treatises Committee. She has been a contributing author to the Antitrust Section's *Proof of Conspiracy Under Federal Antitrust Laws* (3d ed.), *Antitrust Discovery Handbook* (2d ed.), *Joint Venture Handbook* (2d ed.), and the 2010 Annual Review of Antitrust Law Developments. In addition, Ms. Anderson served as an editor for *Model Jury Instructions in Civil Antitrust Cases* (2016 ed.). Ms. Anderson was a co-author of an article appearing in the Fall 2014 edition of *Competition: Journal of the Antitrust and Unfair Competition Section of the State Bar of California*, titled *The Misapplication of Associated General Contractors to Cartwright Act Claims*, 23 *COMPETITION: J. ANTI. & UNFAIR COMP. L. SEC. ST. B. CAL.* 120 (2014). Ms. Anderson is also a frequent speaker on women in the law and antitrust topics through the American Bar Association and other organizations.

During law school, Ms. Anderson served as an extern at the U.S. Department of Justice, Antitrust Division, in San Francisco and as an extern to Justice Kathryn Mickle Werdegarr of the Supreme Court of California. She was also a research assistant to Professor James R. McCall in the areas of antitrust and comparative antitrust law.

PATRICK MCGAHAN

PRACTICE EMPHASIS

Mr. McGahan specializes in antitrust and commodities litigation before U.S. and English courts.

ADMISSIONS

State of New York; England and Wales (with Higher Rights of Audience); Queensland, Australia

EDUCATION

King's College London (Postgraduate Diploma in Competition Law, 2015); University of Queensland (Bachelor of Laws, First Class Honours, and Bachelor of Arts, 2010)

HIGHLIGHTS

Mr. McGahan is a partner in Scott+Scott's Connecticut and London offices and works closely with other members of the firm's Antitrust and Competition Practice in counseling corporate and institutional clients, evaluating potential claims, and developing strategies to recover losses caused by anticompetitive conduct. He has also acted for clients in a variety of securities litigation, arbitrations (both investment treaty and commercial), and pieces of general commercial litigation.

In the U.S., Mr. McGahan is a member on the Scott+Scott teams prosecuting *In re Cattle Antitrust Litigation*, No. 19-cv-1222 (D. Minn.) (alleging conspiracy amongst nation's meatpackers to suppress fed cattle prices), *Two Roads Shared Trust v. John Does*, No. 20-cv-00831 (N.D. Ill.) (alleging manipulative trading of SPX Options in breach of the

Commodities Exchange Act), and *Robinson v. Diana Containerships*, No. 17-cv-6160 (E.D.N.Y.) (alleging conspiracy between funder and various Greek shipping companies), among other matters. In England, Mr. McGahan is presently representing numerous clients who have European claims arising from the manipulation of the foreign exchange market.

Prior to joining Scott+Scott, Mr. McGahan spent four years in the London office of Freshfields Bruckhaus Deringer LLP. During this time, he acted in many of the leading English competition damages cases, including *National Grid Electricity Transmission Plc v. ABB Ltd.* He also acted for numerous clients in competition law investigations, both internal investigations and those brought by the Competition and Markets Authority, the European Commission, and other regulators.

ARTICLES

Mr. McGahan co-authored with Belinda Hollway, David Howe and Devina Shah, **Cartel Damages Settlements and the Damages Directive: The End of the Road for Contribution Claims**, Global Competition Review (2017), Volume 10.

He also co-authored with David Howe and Cian Mansfield, **Intel on Jurisdiction: An Intelligent Approach to Treating Anticompetitive Conduct across Global Supply Chains**, Global Competition Review (2018), Volume 1.

DAVID H. GOLDBERGER

PRACTICE EMPHASIS

David H. Goldberger's practice is primarily focused on complex antitrust litigation, initial antitrust case investigations, and other special projects.

ADMISSIONS

United States District Courts for the Northern, Central, and Southern Districts of California; State of California;

EDUCATION

California Western School of Law (J.D., 2002); University of Colorado (B.A., 1999)

HIGHLIGHTS

Mr. Goldberger is an associate in the San Diego office and his notable prior representative actions involving antitrust claims include *Kleen Products LLC v. Packaging Corporation of America*, No. 10-cv-5711 (N.D. Ill.) (\$376.4 million settlement), an action challenging price-fixing in the containerboard industry, and *In re Lithium Ion Batteries Antitrust Litigation*, No. 13-md-2420 (N.D. Cal.), an action challenging price-fixing of Li-Ion batteries. Mr. Goldberger has also worked on antitrust cases involving delayed generic drug entry, such as *Mylan Pharmaceuticals Inc. v. Warner Chilcott Public Ltd. Co.*,

No. 12-cv-3824 (E.D. Pa.) (\$8 million settlement) and *In re Prograf Antitrust Litigation*, No. 1:11-md-02242 (D. Mass.).

Mr. Goldberger currently represents antitrust class plaintiffs in *Alaska Electrical Pension Fund v. Bank of America Corp.*, No. 1:14-cv-07126 (S.D.N.Y.), an action challenging collusion in the setting of ISDAfix, a global benchmark used to value interest rate derivatives, and *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789 (S.D.N.Y.). Mr. Goldberger also maintains a lead role for Scott+Scott in communicating with potential class members regarding complex class action settlement procedures, including claim filing.

Previously, Mr. Goldberger was active in Scott+Scott's securities fraud and ERISA practice, including *In re: Priceline.com Securities Litigation*, No. 03-cv-1884 (D. Conn.) (\$80 million settlement), *Alaska Electrical Pension Fund v. Pharmacia Corp.*, No. 03-1519 (D.N.J.) (\$164 million settlement), and *In re: General Motors ERISA Litigation*, No. 05-71085 (E.D. Mich.) (resulting in significant enhancements to retirement plan administration in addition to \$37.5 million settlement for plan participants).

Mr. Goldberger was also a founding member of Scott+Scott's institutional investor relations team, providing the firm's many institutional clients with assistance in various matters pertaining to their involvement in complex civil litigations as well as assisting institutional clients in submitting eligible claims in those actions.

A lifelong resident and native of San Diego, Mr. Goldberger was an instituting member of the Torrey Pines High School "Friends of the Library" and coaches local youth sports in his spare time.

YIFAN ("KATE") LV

PRACTICE EMPHASIS

Kate Lv's practice focuses on prosecuting antitrust actions with an emphasis on intercultural cartels.

ADMISSIONS

Ms. Lv is a member of the California, New York, and China Bars.

EDUCATION

William & Mary School of Law (J.D., 2014); Peoples University of China, Beijing, China (Master in Law, 2010); Tianjin University of Commerce, Tianjin, China (Dual Bachelors in Law and Economics, 2008)

HIGHLIGHTS

Ms. Lv is an associate in Scott+Scott's San Diego office and represents plaintiffs in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.), challenging foreign-exchange market manipulation by many global financial institutions.

Ms. Lv also represents and advises the firm's Asian clients and is bilingual – speaking fluent Chinese and English.

MICHAEL SRODOSKI

Mr. Srodoski is an associate in the firm's Connecticut office and prosecutes complex consumer class actions with a focus on antitrust and unfair competition violations.

ADMISSIONS

United States District Courts: District of Minnesota; States of Minnesota and New York

EDUCATION

University of Minnesota Law School (J.D., cum laude, 2016); University at Albany (B.A., Economics, 2001)

CLERKSHIPS

Clerk for Hon. Carol A. Hooten, Minnesota Court of Appeals, 2016-2017

Extern for Hon. Diana E. Murphy, United States Court of Appeals for the Eighth Circuit, 2015

PUBLICATIONS

Mr. Srodoski, *Steering for More Trouble? Could the Ruling in United States v. American Express Co. Lead to Further Antitrust Enforcement Actions Against American Express in Europe?* 25 MINN. J. INT'L L. 1 (Winter 2016).

REPRESENTATIVE CASES

In re Cattle Antitrust Litigation, No. 0:19-cv-01222 (D. Minn.) (co-lead counsel); *Two Roads Shared Trust v. John Does*, No. 1:20-cv-0831 (N.D. Ill.) (attorney for Plaintiff); *In re: ICE LIBOR Antitrust Litigation*, No. 1:19-cv-00439 (S.D.N.Y.) (attorney for all Plaintiffs); *In re Equifax, Inc., Customer Data Security Breach Litigation*, No. 1:17-md-2800 (N.D. Ga.) (member of the Plaintiffs' Coordination and Discovery Committee); *In re Broiler Chicken Antitrust Litigation*, No. 1:16-cv-08637 (N.D. Ill.) (member of Plaintiffs' Discovery Committee).

In his free time, Michael enjoys hand tool woodworking, reading to his son, and traveling (especially to Citizens Bank Park to watch the Philadelphia Phillies play).



INTERNATIONAL LITIGATION



Since the Supreme Court's decision in *Morrison v. Nat'l Austl. Bank Ltd.*, No. 08–1191 (2010), pension funds are seeing increased monitoring activity in foreign jurisdiction litigation. United States funds are making increased investments in foreign companies trading on foreign exchanges, including the emerging markets. These companies are not immune to suffering the effects of fraud. Again, a fund needs to have a system in place to ensure that it learns about these situations and has an action plan to make sure that assets are protected. In the context of a foreign company, this is particularly important given changes in the U.S. securities laws. Notably, many foreign jurisdictions require funds to take affirmative steps to participate in foreign cases and recover losses.

Scott+Scott has experience in foreign jurisdiction litigation and can help funds navigate that process, so funds have the ability to participate, if they choose, and recover losses. The Firm is able to monitor and evaluate cases filed in non-U.S. jurisdictions and evaluate our clients' ability to participate in those cases. The Firm is currently litigating and evaluating cases in Europe, as well as Australia and Canada. However, because many foreign jurisdictions require plaintiffs to "opt-in" from the onset of the litigation, it usually requires participation at the beginning of an action to participate in any recovery.



SCOTT+SCOTT LONDON

Scott+Scott's London office specializes in pursuing violations of European securities and antitrust laws. The Firm's European clients are primarily multinational corporations who have suffered losses across a number of jurisdictions. Scott+Scott London works closely with the Firm's U.S. and Amsterdam-based offices to deliver integrated multi-jurisdictional strategies.

Because its legal team is highly experienced in assessing business cartel damages Scott+Scott London has been retained by several large international companies to recover losses caused by a decade-long and worldwide business cartel to fix the prices and allocate markets in the cables sector.

Additionally, Scott+Scott London is acting for Michael O'Higgins FX Class Representative in bringing a collective action in the U.K.'s Competition Appeal Tribunal on behalf of victims of the foreign exchange cartel in Europe. The action is brought against five of the world's leading banks (Barclays, Citibank, JPMorgan, RBS, and UBS) and is one of only a handful of actions brought using the U.K.'s new regime for class actions for victims of breaches of competition law.

Scott+Scott has also brought over 20 claims in London's High Court against Visa and MasterCard in relation to their anticompetitive multilateral interchange fees, acting for multinational retailers, U.K. household names, and several hotel chains. Scott+Scott London is also working closely with the Firm's U.S.-based offices for Kodak in litigation in the U.K. and United States in relation to anticompetitive conduct involving aluminium warehousing.

SCOTT+SCOTT AMSTERDAM



In 2019, Scott+Scott opened the Firm's Amsterdam office. The Netherlands has a robust litigation regime and is a premier jurisdiction for private enforcement cases. Its courts are increasingly friendly to parties seeking damages from price fixing and other forms of wrongdoing. The Netherlands also offers a mechanism for settling cases on a global basis. U.S. investors can now seek compensation for losses outside the United States without having to engage third-party Dutch law firms.

Our presence there provides our clients, whether headquartered in the US or Europe, a one-stop shop for global recoupment. In the wake of billions of dollars of recent fines imposed by the EU antitrust regulator, Scott+Scott Amsterdam is currently reviewing claims on behalf of multi-national corporations against the world's largest truck-makers, including MAN, DAF, Daimler, Iveco, and Volvo/Renault, for colluding to coordinate prices and pass on the costs of emission-reducing technologies.



SCOTT+SCOTT BERLIN

Scott+Scott Berlin opened in November 2020 to be led by private enforcement expert Markus Hutschneider who joined the firm from Deutsche Bahn, where he headed the multinational company's team of lawyers in the competition litigation unit. Hutschneider has worked on several high profile cases involving the German rail track cartel, the air cargo cartel, and the trucks cartel. He also has extensive experience negotiating out-of-court settlements.

Germany is one of the leading European markets for manufacturing and business and one of the top jurisdictions for corporations and other large clients seeking to recover their losses from price-fixing cartels and other wrongdoing. Opening the Berlin office further enhances the firm's ability to be out in front of the developing antitrust and regulatory environment in Germany and in the EU, allowing Scott+Scott to better serve its multinational clients' complex litigation needs, including for cartel damages claims. Scott+Scott Berlin is currently advising large clients on metal packaging in light of commission investigation.

INVESTIGATIONS



Our internal investigations unit is unmatched in its sophistication and ability to identify, connect with, and obtain vital information from witnesses. The Firm's in house investigative department is led by attorney Alex Vargas, who has over a decade of legal and investigative experience. Under Vargas' direction, investigators employ public record databases, in-person interviews, and forensic IT to unravel complex cases, discover critical "evidence" and deliver actionable intelligence. The team works seamlessly with a robust, international network of boots-on-the-ground investigative experts to navigate the privacy and banking laws of different jurisdictions and deliver the facts from anywhere in the world.

The team's investigations have contributed to recoveries in excess of \$3.2 billion on behalf of aggrieved investors, including, notably, their efforts in identifying, interviewing, and working with key witnesses, as well as obtaining critical evidentiary materials, leading to the largest trial settlement in the securities fraud arena (\$2.46 billion in *Lawrence E. Jaffe Pension Plan v. Household Int'l Inc.*, No. 02-cv-05893 (N.D. Ill. 2006)).

Prior to joining Scott+Scott, Mr. Vargas served as the Director of Litigation Support at a boutique investigation firm in New York and earlier, was employed by an investigation firm handling securities fraud cases exclusively. Mr. Vargas received both his B.A. and J.D. from the University of San Diego and is licensed to practice law in New York, California, and the District of Columbia.



ATTORNEY COURT ADMISSIONS

International Admissions: The Netherlands; England and Wales (including Higher Rights of Audience); Republic of Ireland; Scotland; New South Wales, Australia; Queensland, Australia; and Germany; U.S. Admissions: United States Supreme Court; United States Courts of Appeal for the First, Second, Third, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits; United States District Courts for the Districts of California (Northern, Southern, Eastern, and Central), Colorado, Connecticut, Florida (Northern), Illinois (Northern), Massachusetts, Michigan (Eastern), Missouri (Eastern), New Jersey, New York (Southern, Eastern, and Western), Ohio (Northern and Southern), Pennsylvania (Eastern and Western), Texas (Northern, Western, and Southern), Wisconsin (Eastern and Western), and the District of Columbia; and the courts of the States of Arizona, California, Connecticut, Delaware, Florida, Maryland, Pennsylvania, Massachusetts, Nebraska, New Jersey, New York, Ohio, West Virginia, Wisconsin, Texas, and the District of Columbia.

ACCOLADES



U.S. News & World Report “Best Law Firms”

The Firm is currently ranked by U.S. News & World Report as a “Best Law Firm” in commercial litigation in the New York region.

American Antitrust Institute

The 2018 Antitrust Annual Report recognized *In re Foreign Currency Benchmark Rates Antitrust Litigation* as the #1 settlement of 2018, as well as ranking the Firm #1 nationally for aggregate settlements: 2013-2018.

Global Competition Review

At the 6th Annual Global Competition Review (“GCR”) Awards, Scott+Scott won for Litigation of the Year – Cartel Prosecution, which recognized the Firm’s efforts in the foreign exchange settlements in the United States, a landmark case in which major banks conspired to manipulate prices paid in the \$5.3 trillion-per-day foreign exchange market and have thus far settled for more than \$2 billion.

Law 360 Glass Ceiling Report

Scott+Scott is recognized as one of the top law firms in the nation for female attorneys by the legal publication Law360. The Glass Ceiling Report honors firms that “are demonstrating that the industry’s gender diversity goals can turn into a measurable result, and boost the number of women at all levels of a law firm.”¹
²” This selection highlights the importance Scott+Scott places on diversity and inclusion within the Firm.

Center for Constitutional Rights

Scott+Scott was the recipient of the 2010 Center for Constitutional Rights’ Pro Bono Social Change Award for its representation of the Vulcan Society, an association of African-American firefighters, in challenging the racially discriminatory hiring practices of the New York City Fire Department.

¹ <https://www.law360.com/articles/1310926>

<https://www.law360.com/articles/1162859/the-best-law-firms-for-female-attorneys>.

